



Permanent Flooding

Department of Local Government Finance

Tom Bennington

Steve McKinney

Assessor/Auditor

September, 2009



Traditional Flood Relief

- DLGF Real Property Assessment Guideline Book 1, Chapter 2, Page 104
- Land type 41: Land floods occasionally.
 - Damaging floods occur two to four times in a ten-year period
 - 30% influence factor
- Land type 42: Land floods severely.
 - Damaging floods occur five times or more in a ten-year period
 - 50% influence factor



Traditional Flood Relief

- Land type 43: Farmed wetlands
 - U.S. Dept. of Agriculture has designated this land as farmed wetlands.
 - Designation must be verified through the USDA, Farm Services Agency.
 - 50% influence factor



Traditional Flood Relief

- For land types 41, 42, and 43 the flooding must cause substantial damage or loss of crops between the months of April and November.



Permanent Flooding

- HEA 1365-2009 established IC 6-1.1-4-11.5
- Allows for a property owner to petition for reassessment of property that is permanently flooded or to which access over land is permanently prevented by flooding, and not used for agricultural purposes
- Retroactive to January 1, 2008
- Applies only to property taxes first due and payable after 2008



Permanent Flooding

- HEA 1365-2009 amends IC 6-1.1-17-0.5
- Allows a county auditor to reduce a taxing unit's assessed value based on reassessments of permanently flooded property
- Retroactive to January 1, 2008.



Permanent Flooding

- HEA 1365-2009 adds a non-Code provision for a parcel in which permanent flooding took place after March 1, 2008 and before November 11, 2008, or to which access over land is permanently prevented after March 1, 2008 and before November 11, 2008.
- Retroactive to January 1, 2007



IC 6-1.1-4-11.5

- The owner of property that is permanently flooded may petition the county assessor for reassessment if:
 1. it is permanently flooded or the access to the land is permanently prevented by flooding and
 2. the land is not used for agricultural purposes.



Petition to Reassess

- Upon receipt of the petition (137PF) the assessor shall cause a survey of the parcel and if it meets the definition of permanent flooding the county assessor shall order a reassessment of the parcel.



Petition to Reassess

- The county assessor shall specify in the order:
 1. The time within which the reassessment must be completed
 2. The date on which the reassessment takes effect



Petition to Reassess

- Reassessment applies to all subsequent assessments until the assessor determines the circumstances have changed sufficiently to order another reassessment.
- However, these parcels still need to be reassessed during a general reassessment.



Petition to Reassess

- The county auditor and treasurer shall publish notice of the availability of a reassessment under this provision in accordance with IC 5-3-1 (Legal Advertising and Publication of Legal Notices).



Flooding Between Prior 11/10 and Current 5/11

- If flooding occurs before May 11 of current year and after November 10 of prior year and a petition is filed no later than December 31 of the current year the reassessment order takes effect for both the 2008 assessment date and the 2009 assessment date.



Flooding Between Prior 11/10 and Current 5/11

- For example:
 - Flooding occurs 02/13/09
 - 137PF is filed 07/01/09
 - The order takes effect for 2008 pay 2009 taxes and 2009 pay 2010 taxes



Flooding Between May 10 and November 11

- If flooding occurs after May 10 of the current year and before November 11 of the current year, and a petition is filed not later than December 31 of the current year, the reassessment order takes effect for both the assessment date in the current year and the assessment date in the preceding year.



Flooding Between May 10 and November 11

- For example:
 - Flooding occurs July 1, 2009
 - 137PF is filed September 15, 2009
 - The order takes effect for 2008 pay 2009 taxes and the 2009 pay 2010 taxes.



Flooding Between May 10 and November 11

- However, under this scenario only the second installment of the taxes due and payable in the current year is determined based on the reassessment.
- In other words, the county auditor would need to recalculate the second installment of the 2008 pay 2009 taxes based on the reassessed value.



Payment of Taxes

- If the property owner pays property taxes on the permanently flooded property in the current year based on the assessment that applied before the ordered reassessment, **then the property owner is entitled to a refund.**



Payment of Taxes

- In other words, if the taxpayer pays the 08 pay 09 taxes in full prior to the re-calculation, the taxpayer will get a refund for the amount of overpayment.
- The refund amount is the difference between the amount paid and the amount determined based on the reassessment.



Payment of Taxes

- The taxpayer is not required to apply for a refund due under this section.
- The county auditor shall, without an appropriation being required, issue a warrant to the property owner payable from the county general fund for the amount of the refund.



Payment of Taxes

- If, on the other hand, the property owner has not paid property taxes on the permanently flooded property in the current year based on the assessment that applied before the reassessment, **then the county treasurer shall issue to the property owner tax statements that reflect property taxes determined based on the reassessment.**



Flooding After 03/01/08 and Before 11/11/08

- HEA 1365-2009 added a non-Code provision retroactive to January 1, 2007.
- Non-Code provision was for land that was “permanently” flooded after March 1, 2008 and before November 11, 2008.
- This non-Code provision expires January 1, 2010.



Flooding After 03/01/08 and Before 11/11/08

- The deadline to file the 137PF petition was July 1, 2009.
- Upon receipt of the petition the county assessor is to follow the same procedures as for the aforementioned scenarios - i.e., survey the parcel, and if it is not being used for agricultural purposes, order it to be reassessed.



Flooding After 03/01/08 and Before 11/11/08

- The order shall state that the reassessment takes effect for the assessment dates of March 1, 2007 (07 pay 08 taxes), and March 1, 2008 (08 pay 09 taxes).



Flooding After 03/01/08 and Before 11/11/08

- If a reassessment is ordered under this provision, the property owner is entitled to a refund in the amount of one-half the remainder of: the amount paid by the property owner with respect to the parcel for 07 pay 08 taxes minus the quantity of (07 pay 08 taxes based on the reassessment + 08 pay 09 taxes based on the reassessment).



Flooding After 03/01/08 and Before 11/11/08

- For example:
 - Taxpayer paid \$1,000 for 07 pay 08 taxes
 - After reassessment taxes due are \$300
 - 08 pay 09 taxes due are \$200
- Calculation:
 - $\$1,000 - (\$300 + \$200)$
 - $\$1,000 - \$500 = \$500$
 - $\frac{1}{2} \times \$500 = \250 refund due to taxpayer



Flooding After 03/01/08 and Before 11/11/08

- As in the other cases where a refund is due, the taxpayer does not have to file for the refund.
- The auditor shall, without appropriation, pay the refund from the general fund.
- No interest is payable on the refund.
- The county auditor and treasurer shall publish notice as per IC 5-3-1 of the availability of this provision.



Summary of Tax Payments

- Payment of taxes under the three scenarios:
 1. Flooding occurs before 5/11 of current year and after 11/10 of the preceding year.
 - For example: 4/15/09
 - Both the 08 pay 09 and 09 pay 10 tax bills are based on the reassessed values.



Summary of Tax Payments

2. Flooding occurs after 5/10 and before the following 11/11
 - 08 pay 09 and 09 pay 10 tax bills are adjusted based on the reassessed values
 - However, only the second installment or $\frac{1}{2}$ the 08 pay 09 taxes due are adjusted based on the reassessed value.



Summary of Tax Payments

3. Per non-Code provision, flooding occurs after 3/1/08 and before 11/11/08
 - Taxpayer is entitled to a refund for $\frac{1}{2}$ the remainder of (the amount paid for 07 pay 08 taxes – (taxes due for 07 pay 08 based on reassessment + 08 pay 09 taxes due based on reassessment)).



Summary of Tax Payments

- In the last scenario, the 137FP had to be filed by July 1, 2009, and this non-Code provision expires January 1, 2010.
- In all scenarios, the taxpayer does not have to file for a refund if one is due. The county auditor is to issue a warrant to the property owner payable from the county general fund.



General Summary

- New section in Indiana Code 6-1.1-4-11.5 establishes relief for permanently flooded land (or land to which access over land is permanently prevented by flooding), and not used for agricultural purposes.
- Also HEA 1365-2009 adds a non-Code provision for land flooded after 3/1/08 and before 11/11/08.



General Summary

- Upon filing of 137PF, the county assessor shall cause a survey of the parcel, and if it meets the criteria order a reassessment of the parcel, specify when the reassessment must be completed, and the date the reassessment takes effect.



General Summary

- The county auditor and treasurer shall publish notice of the availability of a reassessment under this provision in accordance with IC 5-3-1 (“Legal Advertising and Publication of Legal Notices”).



General Summary

- If after the reassessment a refund is due, the county shall make out a warrant to the property owner payable from the general fund.
- Taxpayer does not have to file for the refund.
- There is no interest payable on the refund.



Contact The Department

- **Tom Bennington**
 - Telephone: 317.650.9254
 - Fax: 317.232.8779
 - E-mail: tbennington@dlgf.in.gov
- **Steve McKinney**
 - Telephone: 317.650.8990
 - Fax: 317.232.8779
 - E-mail: smckinney@dlgf.in.gov
- **Web site: www.in.gov/dlgf**
 - “Contact Us”: www.in.gov/dlgf/2338.htm